



Commission may grant leave to file a supplement to a petition for reconsideration upon a separate pleading for leave to file, which states the grounds.

In this instance, on November 14, 2016 Petitioners provided evidence that Papa Murphy's was not confused by the 2012 Order<sup>2</sup>, but was instead simply unaware of it, thus negating the sole basis for the waiver. *See* Pet. at 14; Reply at 4. This evidence included archived copies of Papa Murphy's website showing that Papa Murphy's did not comply or implement the 2012 Order's express written consent requirements until long after the effective date of these requirements, thus demonstrating that Papa Murphy's was simply unaware of the 2012 Order, not confused by it. Petitioners informed the Commission that it would provide authenticated copies of these webpages. *See* Reply at 4. This proposed supplement provides authenticated copies of these same webpages, and consequently provides the Commission with an authenticated factual record as to Papa Murphy's lack of confusion. This supplement is particularly important in light of Papa Murphy's unsupported claims to counter this evidence that it made changes to its text message program disclosures that related to the 2012 Order on or about October 16, 2013. *See* Resp. at 10. Based on the evidence now available to the Commission, this is incorrect: nowhere on these webpages is there (1) a disclosure that Papa Murphy will send text messages using an autodialer or (2) a disclosure that consent is not a condition of purchase.

Since the Commission has not yet acted on Petitioners' Petition for Reconsideration, acceptance of this supplement will not delay the proceeding.

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<sup>2</sup> *See In re Rules & Regs. Implementing the TCPA of 1991*, 27 FCC Rcd. 1830, 1836 (Feb. 15, 2012) (hereinafter "2012 Order").

Based on the foregoing, Petitioners respectfully ask the Commission to grant this Request for Leave to File Supplement and accept the accompanying supplement for the record in this proceeding.

DATED this 16th day of December, 2016.

Respectfully submitted,

*By: s/June P. Hoidal*

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## **CERTIFICATE OF SERVICE**

I hereby certify that on December 16, 2016, I caused John Lennartson and Susan Shay Nohr's Request for Leave to File Supplement to Petition for Reconsideration of Retroactive Waiver to Papa Murphy's Holdings, Inc. and Papa Murphy's International L.L.C. to be served on the parties listed on the attached service list via the Electronic Comment Filing System and First Class Mail.

I further certify that I also served an electronic courtesy copy on counsel for Papa Murphy's Holdings, Inc. and Papa Murphy's International L.L.C. via e-mail.

*s/ June P. Hoidal*  
June P. Hoidal

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